

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELISA W. et al.,

Plaintiffs,

-v-

No. 15 CV 5273-LTS-HBP

THE CITY OF NEW YORK, et al.,

Defendant.

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ORDER

The Court has received and reviewed the letters filed by third parties Coalition for Hispanic Family Services (“CHFS”) and Heartshare St. Vincent Services (“HSVS”) in response to its Order dated July 30, 2019 (docket entry no. 438). (Docket entry nos. 447, 448.) In light of CHFS and HSVS’s representation that they have “made multiple requests to review the document wherein consent is being requested . . . [and] have never received a response on this or copies of any other documents,” Named Plaintiff Children are hereby directed to specify and provide copies to CHFS and HSVS of the precise deposition excerpts upon which they intend to rely in connection with their motion for class certification and which they seek to file under seal. Upon a review of those materials, Named Plaintiff Children, CHFS, and HSVS are directed to file, no later than **September 6, 2019**, a joint report stating their respective positions as to the confidential nature of the excerpts and any need for continued sealing.

The Second Amended Protective Order in this case (docket entry no. 391) provides for the designation of certain categories of information as “Confidential Information,” however, the parties have not identified any specific provisions of the Protective Order which they contend are applicable to the specified testimony. To the extent that CHFS and HSVS seek

continued sealing of the excerpted testimony on the basis of any provision of the Protective Order, they must specifically identify that provision in the joint report and explain why the particular information warrants protection from public scrutiny (e.g., sealing to protect sensitive medical or psychological information regarding particular children or sealing to protect information concerning the amounts of financial assistance provided to particular individual recipients of child welfare, foster care, or adoption assistance services). To the extent that Named Plaintiff Children wish to withdraw their proffer of the excerpted testimony, they must so state in the joint report.

The parties are reminded that documents upon which the Court is asked to rely in rendering a judicial decision, including submissions filed in connection with a motion seeking a class certification determination, are judicial documents “relevant to the performance of the judicial function and useful in the judicial process,” regardless of whether the determination sought is dispositive of the action. Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 119 (2d Cir. 2006).

The temporary sealing of the deposition excerpts is hereby continued until September 6, 2019. If no timely joint report is filed, the excerpts shall be unsealed without further notice. Named Plaintiff Children are directed to serve a copy of this Order upon CHFS and HSVS, and to file a certificate attesting to such service, no later than **August 16, 2019**.

SO ORDERED.

Dated: New York, New York
August 15, 2019

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge